GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Revision Petition filed by Sri Addala Nageswara Rao, S/o late Sri Venkata Rao, Occ: Retd., Bank Employee, Hyderabad- against the G.O.Ms.No.70, S.W.(CV.2) Department, dated 19.06.2009, wherein the proceedings No. C5(M) 5925/98, dated 20.10.2005 of the District Collector, East Godavari was upheld- under Section 8(1) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Revision Petition dismissed – Orders -Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.MS.No. 48 Dated: 24-04-2018
Read the following:

1. Proceedings of the District Collector, East Godavari, Rc.No. C5(M)/5925/98, dt.20.10.2005.
2. Appeal Petition filed by Sri Addala Nageswara Rao S/o late Sri Venkata Rao, Occ: Officer in SBI, dated 14.12.2005 before M(SW&TW) through his advocate.
3. G.O.Ms.No.70, S.W.(CV.2) Dept., dt.19.06.2009.
4. Order of the Hon'ble High Court of AP, Hyderabad in WP.No. 14858/09 filed by the appellant, dated 16.04.2012.
5. Govt. Memo No. 8194/CV.2/2009-1, S.W.(TW.CV.2) Department, dated 17.05.2012.
6. Govt. Memo No.8194/CV.2/2009, dated 30.11.2016, 12.01.2017 & 29.05.2017.
7. From the District Collector, East Godavari, Lr. Ref C5 (M) 5925/1998, dated 10.06.2017.
8. Govt. Memo No.8194/CV.2/2009, dated 29.06.2017.
9. Written arguments filed by appellant through his Counsel on 18.08.2017.

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ORDER:

In the reference 1st read above the District Collector, East Godavari has issued orders cancelling ST-Konda Kapu certificate of Sri Addala Nageswara Rao, S/o late Sri Venkata Rao.

2. In the reference 2nd read above, Sri Addala Nageswara Rao, S/o late Sri Venkata Rao, has filed Appeal Petition before the Government against the said proceedings of the District Collector, East Godavari. After examination the said Appeal Petition Government have issued orders rejecting the Appeal Petition of Sri Addala Nageswara Rao, S/o late Sri Venkata Rao, duly upheld the proceedings issued in the reference 1st read above by the District Collector, East Godavari in the reference 3rd read above.

3. Aggrieved by the said orders, Sri Addala Nageswara Rao, S/o late Sri Venkata Rao has filed W.P. No. 14858/2009 before the Hon'ble High Court of A.P.. In the reference 4th read above, the Hon'ble High Court of A.P., while disposing the said W.P., on 16.04.2012 has ordered that the impugned order is set aside and the matter is remanded to the Government and directed to issue fresh notice to the petitioner and afford reasonable opportunity of hearing, and pass appropriate orders in accordance with law, within four months from the date of receipt of the order. But, due to several administrative difficulties the matter could not be disposed off within the time limit as directed by the Hon'ble High Court in the said W.P., however, after giving notices from time to time to the Appellant through his Counsel the matter has been examined by the Appellate Authority.

4. In the reference 5th read above, the District Collector, East Godavari was requested to furnish latest parawise remarks and the original connected records of Sri Addala Nageswara Rao which were returned along with the copy of the G.O.Ms.No.70, SW (CV.2) Dept., dt. 19.06.2009 for conducting re-hearing of the appeal petition filed by Sri Addala Nageswara Rao as per the directions of the Hon'ble APHC, Hyderabad.

[P.T.O]

5. Accordingly, the revision petition has been posted for hearing on 24.12.2016, 24.01.2017, 17.06.2017 , 15.07.2017 & finally on 05.08.2017 and the same was informed to the Appellant and requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no claim what-so-ever in the matter and it will be decided based on the material available with the Government in the references 6th & 8th read above. The Appellant / Counsel for the Appellant have attended the hearing scheduled on 15.07.2017 & 05.08.2017 and filed written arguments before the Government on 18.08.2017 .

6. During the hearings after hearing both the sides and the Government after careful examination of the copies of the evidences/academic record/ grounds filed by the Appellant and proceedings of the District Collector, East Godavari dated 20.10.2005 & report of the District Collector, East Godavari and after hearing the arguments of Appellant & Counsel for the Appellant, the Appellate Authority is observed that:

I. The appellant in his written arguments, dated 16.08.2017 has stated that the appellant's father belongs to Konda Kapu community and resident of Dutcherthi village in Addateegala Mandal of Agency Area in East Godavari District and studied in Addateegala . Further, he has stated that the appellant's father, who is a Konda Kapu by caste was having a kept mistress namely Venkayamma @ Addalamma belonging to Kondareddy caste of that area and the appellat was adopted by the said Addalamma and he used to live along with his adoptive mother and his childhood was with her only.

II. The District Level Scrutiny Committee has observed that Sri Sri Addala Venkata Ratnam, own brother of the appellant deposed before the MRO, Samalkota that his father late Sri Venkata Rao came to Addateegala (V)from Athreyapuram during his (father's) childhood. This clearly shows that the appellant's father migrated to Addateegala from Athreyapuram, a plain area village where there were no Kondakapu community tribal people. The appellant deposed that both his biological mother Sathyavathi and his foster mother Addla Venkamma belongs to Kondareddy community. But his biological mother deposed before the MRO., Y.Ramavaram on 23.9.1988 that Addla Venkamma belongs to Kondakapu community. Both the appellant and his biological mother Sathyavathi deposed that Sathyavathi's father Jartha Bodaiah and mother Jartha Chellayamma belonged to Kondareddy community and were natives of Gurthedu (V). But during the enquiry by the MRO. Y.Ramavaram through the village servants of Gurtheduvillage, the Sarpanch of Gurthedu and other villagers who belong to Kondareddy community deposed that the people by names Jartha Bodaiah and his wife Chellayamma and their daughter Sathavathi said to be of Kondareddy community were never resident at Gurthedu village and they do not know such people. From this it is clear that the appellant and his biological mother have gave false statements. The appellant deposed before the MRO., Y.Ramavaram that the name of his biological mother's brother is Jartha Venkata Rathnam R/o Chintakarrapalem. But his biological mother deposed that she had a brother by name Jartha Lachaiah. But the Kondareddy community people of Chintakarrapalam deposed that there was no person by name Jartha Venkata Rathnam in their village. This also clearly shows that the appellant and his mother has given false statements.

In the open enquiry conducted by the DTWO., and the RDO. R.C.Varam on 03.01.2001 in the presence of the appellant and the statements recorded from the people as requested by the appellant it is found that;

a) the biological mother of the appellant belongs to 'Kapu' caste, her father's name is Gadi Pentaiah, residents of Kovvuru of West Godavari District.

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b) The appellant requested to record the statements of villagers of Addateegala about his adoption by Smt. Venkamma of Kondareddy community and the villagers' statement in support of his adoption clearly shows that those villagers were brought for the enquiry by the appellant himself with pre-educated bent of mind. But in doing so, the said villagers in their statement has stated his biological mother's name is Gadi Lakshmamma, but the appellant's biological mother's name as stated by him is Sathyavathi or Satyavatamma with surname Jartha belonging to Kondareddy community which was also proved false by the statements of Gurthedu people before the MRO., Y.Ramavaram.

III. The DLSC has also observed that the appellant and the people who have given affidavits/statements in support of his claim are silent about the original place of birth of the father of the appellant but simply stated that they were residents of Addateegala and even go to the extent of stating that the appellant's father/family are residents of Agency area from the time of Alluri Seetharamaraju's revolt. In the absence of any evidence, it is clear that this is only a baseless statement and all people who were or are residents of Agency area are not Scheduled Tribes. During the enquiry by the MRO. Addateegala one Sri Thota Suryaprakasa Rao S/o Narayana Murthy aged 65 years R/o Addateegala (V) deposed in his statement recorded by the MRO. that he belongs to Kapu caste. His wife is Gagarathnam D/o Gadi Suranna. His wife's mother is Addala Ganamma and the appellant's father Sri Addala Venkata Rao is the brother of his wife's mother i.e. his wife's maternal uncle. Sri Addala Venkata Rao; belongs to 'Kapu' caste and he married Smt. Addala Sathayavathi D/o Gadi Sriramulu who also belongs to Kapu caste and resident of Kovvur village. Sri Addala Naeswara Rao (the appellant) also married a woman of Kapu caste. Thus, the relative(fathers sister's, son-in-law) of the appellant stated that the appellant and his parents belong to Kapu caste and the appellant also married a Kapu woman. The deponent also stated that Sri Addala Venkata Rao, father of the appellant belongs to Kapu caste but got his caste recorded as Manyam Kapu(meaning Kondakapu). In the Birth Registers of Addateegala (V) for the years 1942 and 1944, the caste of the children of Addala Muneyya (appellant's father's brother) was recorded as Kapu. In the land records from the Sub-Registrar's office, Prathipadu, relating to the years 1944 to 1952 the caste of the people with the surname Addala was recorded as Telaga or Kapu. The appellant him-self deposed before the MRO., Addateegala in his own written statement dated 03.11.2000 that his relatives with Addala surname are there in Rajavommangi and Prathipadu Mandals and they got caste certificate as Kondakapu or Kondadora. In view of the above, it is clearly established that the appellant belong to Kapu caste but not Kondakapu ST. Based on the findings of the DLSC the District Collector has cancelled the appellant caste certificate.

IV. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

V. The Appellate Authority is observed that during the course of hearing of the case heard arguments and the appellant filed written arguments to substantiate his contention and on verification of the written arguments, documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed there are no tenable grounds to re-appreciation of the case of the appellant and he failed to produce any evidence to prove that he belongs to ST Community and moreover even ample opportunity given to the appellant he failed to produce any evidence that he is in the fold of Konda Kapu and as such it will be safely presumed that he was not accepted by the tribal society. It is further brought to the notice that the certificate earliest issued

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to the appellant in a routine manner without proper verification and after conducting detailed and thorough enquiry into the caste status of the appellant the same was cancelled. Further, as per the directions of the Hon'ble High Court in WP No.14858/2009, dated 16.04.2012, the Government gave several opportunities to the Appellant to prove his caste but, the Appellant failed to produce record of evidence and other documents to support of his claim. That as per the act that the burden of proving that the appellant belongs to particular cast shall be on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same but in the present case that he failed to discharge his burden. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity either in the findings of the DLSC or the Learned District Collector, E.G. District. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference

7. The Government, in exercise of the powers conferred under Section 8(1) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the Revision Petition filed by Sri Addala Nageswara Rao, S/o late Sri Venkata Rao does not deserve any interference. Hence, Proceedings of the District Collector, East Godavari issued vide Rc.No. C5(M)/5925/98, dt.20.10.2005 is hereby upheld and the revision Petition filed by Sri Addala Nageswara Rao, S/o late Sri Venkata Rao, is hereby dismissed and the caste Certificate deemed to be cancelled .

8. The District Collector, East Godavari is directed to take necessary consequential action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, East Godavari (Kakinada).

Sri Addala Nageswara rao S/o Late Sri Venkatarao,
Occ: Officer in SBI, R/o Hanumakonda,
Warangal District.

Sri N.Siva Reddy, advocate,
H.No.5-9-22/26,
Adarshnagar, Hyderabad-63.

The General Manager(operations),
SBI Head Office, Bank Street,
Koti, Hyderabad.

Copy to :

The Director, TCR& TI, AP, Amaravathi.
The PS to M(SWE& TWE).
The PS to Prl. Secretary(SW&TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER